

NOAA
FISHERIES

Protected Species Update

Reserve Advisory Council Meeting

Northwestern Hawaiian Islands Coral Reef
Ecosystem Reserve

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Proposed Humpback Whale Delisting; Possibility of Approach Regulations under the MMPA



Photo by Doug Perrine/HWRF/Seapics.com/NOAA Fisheries Permit #882



Proposal to Revise ESA Listing

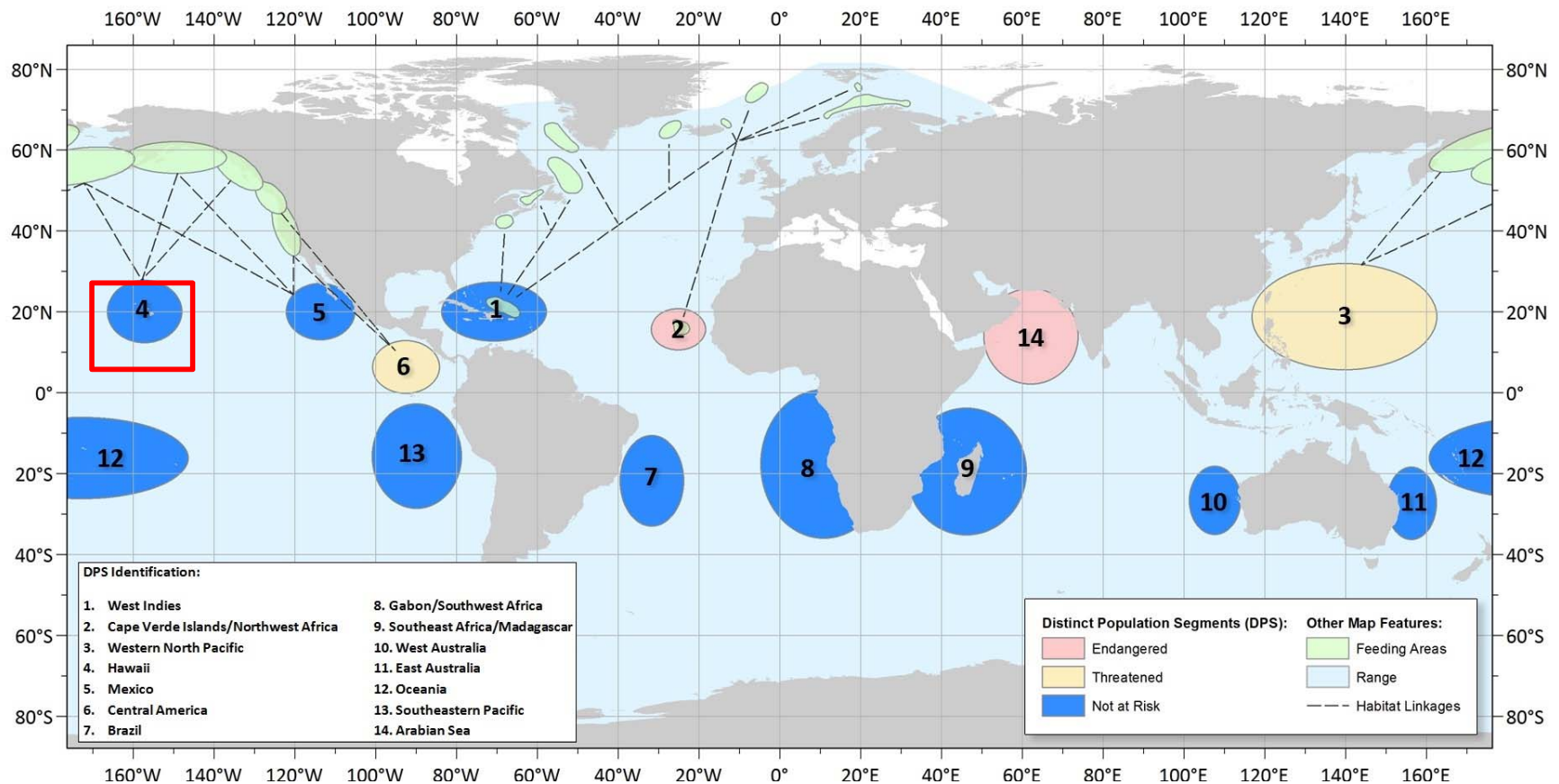
**Proposed rule to separate humpback whale species into 14 Distinct Population Segments
– April 21, 2015**

- **Humpback whales in Hawaii designated as “Hawaii DPS”**
- **Hawaii DPS not proposed as endangered or threatened**

Proposed Humpback Whale Hawaii DPS

Two Endangered DPSs (pink), Two Threatened DPSs (yellow)

Hawaii DPS: Not Listed



Humpback Whale Approach Regulations

Currently, within 200 nm of shore, it is illegal to do the following:

1. Operate an aircraft within 1,000 feet of any humpback whale;
2. Approach, by any means, within 100 yards of any humpback whale;
3. Cause a vessel, or other object to approach within 100 yards of a humpback whale; and
4. Disrupt the normal behavior or prior activity of a whale by any act or omission.

There are also approach regulations in the HIHWNMS, and state approach laws.



Humpback Whale Approach Regulations

- **If humpback whales are no longer listed, Federal ESA approach regulations will no longer be in effect (because implemented under the ESA only)**
 - **ESA approach regulations were first implemented in 1987 as an Interim Rule, finalized in 1995**
- **State (0-3 nm) and Sanctuary approach regulations will still be in effect**



Need for Approach Regulations in Hawaii?

- Humpback whales are charismatic animals; often a target of whale watchers and others
- Close human interaction (from vessel, aircraft, swimmer interactions and noise) can cause
 - Disturbance during breeding, calving, and nursing behaviors
 - Risks of vessel collisions
- Human-whale interactions will likely increase as both populations continue to increase in HI
- Support for Federal approach regulations under the MMPA from the State, the Sanctuary, and 4 other organizations; opposition from 1 organization



Humpback Whale Approach Regulations

- **Completed an Environmental Analysis under NEPA to analyze alternatives with regard to implementing (or not) approach regulations under the Marine Mammal Protection Act**
- **Considering a rulemaking that would be published concurrently with the final revised listing; all comments considered, including for changes in wording from current approach regulations**
- **Would be published as an *interim final rule*, but we would solicit comments and follow up with subsequent final rule and response to comments**



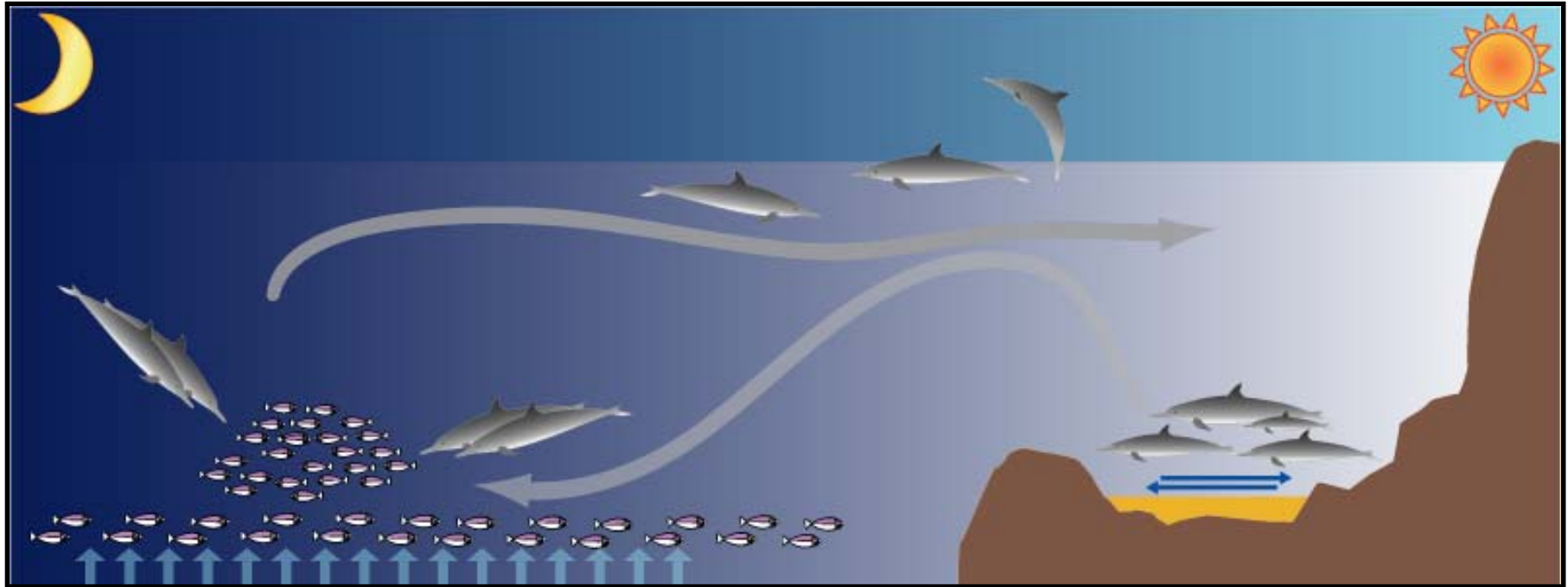
QUESTIONS?



Enhancing Protections for Hawaiian Spinner Dolphins to Prevent Disturbance



A Day in the Life of a Spinner Dolphin



- Night: “working the night shift” offshore (1-10 nm)**

Hunt offshore for fish, squid, and shrimp.

- Day: use sandy bottom, shallow coves and bays close to shore**

Rest, socialize, care for young, and avoid predators (sharks)



Dolphin-Directed Activities

- Swim-with and Dolphin watch tours
- Swimmers/snorkelers from shore (tourists or local residents)
- Other ocean users -- kayak, outrigger canoes, SUP, jet ski, SCUBA companies, sightseeing/cruise tours, rentals or tour groups
- Spiritual Communities, Dolphin-Assisted Therapy



In Hawaii we are seeing impacts...

- Avoidance behaviors of both boats and people (Timmel 2008)
- Deterrence from entering preferred habitat (Danil *et al.* 2005)
- Changes to occupancy rates (Ostman-Lind 2009)
- Shorter resting periods (Danil *et al.* 2005)
- Changes in daily behavior patterns (Forest 2001, Courbis 2008),
e.g., increased aerial behaviors, changes in direction of travel
- Constant state of vigilance, opposite of resting (Danil *et al.* 2005)

In other locations, intense viewing pressures on dolphins have resulted in habitat avoidance, habitat abandonment, and even reduced fitness.



Alternatives Under Consideration

- **No Action**
- **No Swimming with Hawaiian Spinner Dolphins**
- **Approach Rule – 50 yards or 100 yards**
- **Approach Rule and Mandatory Time-Area Closures in Five Selected Essential Resting Habitats**
- **Approach Rule and Voluntary Time-Area Closures in Five Selected Essential Resting Habitats**

***We are considering exceptions to all of these, e.g., for bow riding, emergency situations, research etc.**



What we're doing now...

- Working to get the word out about the situation with spinner dolphins in preparation for publication of a rule (speaking to small groups, at outreach events etc.)
- Planning for public meetings in September



Other Protected Species Activities of Potential Interest

- Final listing rule to revise listing of the **Green Turtle** into 11 DPSs published April 6, 2016;
proposed critical habitat designation underway
- **MHI Insular False Killer Whale** – listed in 2012;
recovery planning and proposed critical habitat designation underway
- **False Killer Whale Take Reduction Plan** – *ongoing*



Other Protected Species Activities of Potential Interest (cont.)

- Petition to list **Oceanic Whitetip Shark** – Positive 90-day finding; *status review underway*
- Petition to List **Giant Manta Ray** and **Reef Manta Ray** – Positive 90-day finding; *status review underway*
(Negative 90-day finding on separate petition to list Maui and Kona reef manta ray as a threatened DPS)
- Petition to list **Smooth Hammerhead Shark** – negative 12-month finding on June 28, 2016
- Petitions to list **Bigeye Thresher Shark** and **Common Thresher Shark** – negative 12-month finding on April 1, 2016



Other Protected Species Activities of Potential Interest (cont.)

Other actions in U.S. Pacific but not Hawaiian islands:

- 15 **Indo-Pacific corals** listed on September 10, 2014; *recovery planning and proposed critical habitat designation underway*
- Petition to list **Pacific Bluefin Tuna** – *under review*
- Petition to list **Chambered Nautilus**– *under review*



Questions?

